

Annex B

DCID 1/14 Appeals

Policy

1. This annex establishes common appeals procedures for the denial or revocation of access to Sensitive Compartmented Information (SCI) by entities of the Intelligence Community after adjudication pursuant to the provisions of DCID 1/14. This annex is promulgated pursuant to Executive Order 12036\*, Executive Order 12065, Section 102 of the National Security Act of 1947, and National Security Council Intelligence Directive No. 1. For the purposes of this annex, all references to DCID 1/14 include the basic document and all of its annexes. Any person who has been considered for initial or continued access to SCI pursuant to the provisions of DCID 1/14 shall, to the extent provided below, be afforded an opportunity to appeal the denial or revocation of such access. This annex supersedes any and all other practices and procedures for the appeal of the denial or revocation of SCI access. This annex shall not be construed to require the disclosure of classified information or information concerning intelligence sources and methods, nor shall it be construed to afford an opportunity to appeal prior to the actual denial or revocation of SCI access. In addition, the provisions of DCID 1/14, this annex, or any other document or provision of law shall not be construed to create a property interest of any kind in the access of any person to SCI. Further, since the denial or revocation of access to SCI cannot by the terms of DCID 1/14 render a person ineligible for access to other classified information solely for that reason, the denial or revocation of SCI access pursuant to the provisions of DCID 1/14 and this annex shall not be construed to create a liberty interest of any kind.

Applicability

2. This annex applies to all United States Government civilian and military personnel, as well as any other individuals, including contractors and employees of contractors, who are considered for initial or continued access to SCI. This annex does not apply to decisions regarding employment and shall not be construed to affect or impair Public Law 88-290 or the authority of any entity to effect applicant or personnel actions pursuant to Public Law 88-290, Public Law 86-36, or other applicable law.

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\*/ Executive Order 12036 superseded Executive Order 11905 as of 24 January 1978.

3. Adjudications for access to SCI shall be made in accordance with DCID 1/14 by a Determination Authority designated by the Senior Intelligence Officer (SIO) of each entity. Access to SCI shall be denied or revoked whenever it is determined that a person does not meet the security standards provided for in DCID 1/14.

Procedures

4a. Persons shall be:

- (1) notified of the denial or revocation of SCI access,
- (2) notified that they may request to be provided the basis for such denial or revocation, and/or
- (3) afforded an opportunity to appeal

whenever the Determination Authority of any entity, in the exercise of his discretion, deems such action in any given case to be clearly consistent with the interests of the national security.

b. Any person who is given notification and afforded an opportunity to appeal pursuant to subparagraph a. above may, within 45 days of the date on which the person is notified of the basis for denial or revocation of SCI access, submit a written appeal of that denial or revocation to the Determination Authority and request an opportunity to make a personal appearance to elaborate on any information provided in the written appeal. The written material submitted for consideration may include any information which the person believes will assist the Determination Authority in reviewing the case.

c. If the person requests the opportunity to make a personal appearance, and after reviewing the written appeal the Determination Authority concludes that there remain unresolved issues which may be resolved through a personal appearance, then the person will be given the opportunity to appear personally before the Determination Authority or his designee to elaborate on any written information provided and to answer any additional questions. The person may be accompanied by a representative at that time.\*\* In appropriate

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\*\*/ Except as provided below, the United States Government shall not be responsible for travel expenses of the person or representative incident to appearing before the Determination Authority. Whenever an SCI adjudication is reversed on appeal, the adjudicating entity shall, to the extent permitted by applicable law, reimburse the person for the person's travel expenses incident to appearing before the Determination Authority.

cases it may be necessary to condition the participation of such representative upon the representative being security approved for exposure to certain classified information prior to the personal appearance. Ordinarily, the personal appearance will be scheduled 30 days after receipt of a personal appearance request.

d. After a further review of the case, based upon a written appeal and any interview conducted pursuant to subparagraph c. above, the person will be notified of the decision of the Determination Authority.

e. If the Determination Authority reaffirms a denial or revocation of access, the person may request a final review of the case. In that event, the SIO, or his designee, shall personally review the case and exercise his discretion pursuant to the provisions of DCID 1/14, and shall inform the person of his decision, which shall be final and unreviewable.